



United States Department of the Interior

Bureau of Indian Education

Human Resources

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IN REPLY REFER TO:

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DATE: November 8, 2019

TO: Tony L. Dearman,
Director
Bureau of Indian Education

FROM: Jackie Shamblin
Human Resources Officer
Bureau of Indian Education

SUBJECT: Minimum Standards of Character for Bureau of Indian Education (BIE)
Background Checks

This memorandum is to request your approval to combine the minimum standards of character as described in 25 CFR Part 63, which pertains to "Childcare" positions, 5 CFR Part 731 which pertains to "Covered" positions in the "Competitive" service, and 5 CFR 302 which pertains to positions in the "Excepted" service.

This request is in accordance with the provisions of 25 CFR Part 63 and 5 CFR 302, which both permit the Agency to determine the minimum standards of character for making suitability determinations. Although OPM requires agencies to use the criteria outlined in 5 CFR 731 for "Covered" positions, the Child Protection requirements of 25 CFR part 63 apply to all BIE employees. Including this regulatory requirement would make the adjudication process streamlined and consistent for all positions in the BIE and for those schools that are not operated by the Bureau, since their minimum suitability requirements must be as stringent as those of the BIE.

For information purposes, many of the regulatory requirements listed in the previously mentioned CFR references are redundant. When combined, the new minimum standards of character would include the following:

- (1) Misconduct or negligence in employment;
- (2) Criminal or dishonest conduct; (no applicant, volunteer, or employee will be placed in a position with regular contact with or control over Indian children if he/she has been found guilty of or entered a plea of nolo contendere or guilty to any offense under Federal, state, or tribal law involving crimes of violence, sexual assault, sexual molestation, sexual exploitation, sexual contact or prostitution, or crimes against persons.)

- (3) Material, intentional false statement, or deception or fraud in examination or appointment;
- (4) Refusal to furnish testimony as required by regulation;
- (5) Alcohol abuse, without evidence of substantial rehabilitation, of a nature and duration that suggests that the applicant or appointee would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the applicant or appointee or others;
- (6) Illegal use of narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation;
- (7) Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force; and
- (8) Any statutory or regulatory bar which prevents the lawful employment of the person involved in the position in question."
- (9) Lack of United States citizenship.

The totality of the minimum standards of character and conduct will include the items listed in this memorandum as well as the questions on other Personnel Security related documents and questionnaires, used for making suitability determinations for Federal employees.

This standard would apply to applicants, appointees, volunteers, contractors. It will also apply to tribally controlled schools, since 25 CFR Part 63.13(b) which states, "*All Indian tribes or tribal organizations* receiving funds under the authority of the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1988 must conduct a background investigation for individuals whose duties and responsibilities would allow them regular contact with or control over Indian children, and employ only individuals who meet standards of character that are no less stringent than those prescribed for the Bureau of Indian Affairs."

Approved ✓

Disapproved _____



Tony L. Dearman
Director, Bureau of Indian Education